SUPREME COURT, STATE OF COLORADO

Case No. 93 SA 017

On Appeal from the District Court, City and County of Denver
H. Jeffrey Bayless, Judge; Case No. 92 CV 7223

BRIEF AMICI CURIAE OF AIDS ACTION COUNCIL, AMERICAN FOUNDATION FOR AIDS RESEARCH, AMERICAN PUBLIC HEALTH ASSOCIATION, ASSOCIATION OF SCHOOLS OF PUBLIC HEALTH, COLORADO AIDS PROJECT, LATIN AMERICAN RESEARCH AND SERVICE AGENCY, NATIONAL ASSOCIATION OF PUBLIC HOSPITALS, NATIONAL TASK FORCE ON AIDS PREVENTION, SEX INFORMATION AND EDUCATION COUNCIL OF THE U.S., HARLON L. DALTON, GERALD FRIEDLAND, LARRY GOSTIN, LARRY KESSLER, JUNE E. OSBORN, DAVID E. ROGERS, ALLAN ROSENFIELD and ROBERT T. SCHOOLEY

RICHARD G. EVANS, ANGELA ROMERO, LINDA FOWLER, PAUL BROWN, JANE DOE, MARTINA NAVRATILOVA, BRET TANBERG, PRISCILLA INKPEN, JOHN MILLER, THE BOULDER VALLEY SCHOOL DISTRICT RE-2, THE CITY AND COUNTY OF DENVER, THE CITY OF BOULDER, THE CITY OF ASPEN, AND THE CITY COUNCIL OF ASPEN,

Plaintiffs-Appellees,

v.

ROY ROMER, as Governor of the State of Colorado, GALE A. NORTON, as Attorney General of the State of Colorado, and the STATE OF COLORADO,

Defendants-Appellants.

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INTEREST OF AMICI

AIDS ACTION COUNCIL is the only national organization dedicated solely to shaping Federal AIDS policy. It was formed in 1984 to represent, in Washington, D.C., people with HIV and the organizations that serve them. AIDS Action Council speaks for over 1,000 community-based AIDS organizations from around the country -- from rural networks and church-based groups to the largest urban service providers. AIDS Action Council also convenes the National Organizations Responding to AIDS, a 150-member coalition of national health care, civil liberties, women's, minority, and gay groups involved in the fight against AIDS.

The AMERICAN FOUNDATION FOR AIDS RESEARCH ("AmFAR") is the nation's leading not-for-profit organization dedicated to the support of AIDS research -- both basic biomedical and clinical research -- education for AIDS prevention, and sound AIDS-related public policy. Since 1985 AmFAR has provided over $58 million to more than 1,000 AIDS research, education and public policy projects. AmFAR mobilizes the good will, energy and generosity of caring people everywhere to end the AIDS epidemic.

The AMERICAN PUBLIC HEALTH ASSOCIATION ("APHA") is a national organization devoted to the promotion and protection of personal and environmental health and to disease prevention. Founded in 1872, APHA is the largest public health organization in the world, with over 50,000 members.

It represents all disciplines and specialties in public health, including health professionals such as physicians, nurses, and health educators. APHA publishes a technical report series that addresses various aspects of the AIDS epidemic, numerous research papers on AIDS in its American Journal of Public Health, and numerous books related to HIV and HIV research. APHA has adopted resolutions condemning irrational responses triggered by fear of HIV and advocating the repeal of laws that treat private, consensual sexual activity as criminal conduct, because such laws undermine the public health.

The ASSOCIATION OF SCHOOLS OF PUBLIC HEALTH ("ASPH") is the only national organization representing the deans, over 2,100 faculty and over 12,000 students of the 25 accredited schools of public health in the United States and Puerto Rico. The schools represent the primary education system that trains personnel needed to operate our nation's public health, disease prevention and health promotion programs. ASPH's principal purpose is to promote and improve the education and training of professional public health personnel. It was formed in 1959 in response to the need to give a national voice to academic public health.

The COLORADO AIDS PROJECT, the oldest and largest AIDS services provider in Colorado, is a non-profit agency founded in 1983 for the purposes of providing support services for persons affected by HIV disease, providing risk

reduction information and AIDS education, and promoting AIDS awareness. The Colorado AIDS Project has a board of 20, a staff of 29, a volunteer cadre of 300, and a client census of 600. The AIDS Project actively opposed and continues to oppose Amendment 2. The events leading to the passage of Amendment 2 have resulted in an increase in discrimination against clients of the Colorado AIDS Project, thereby hindering public health efforts in Colorado.

The LATIN AMERICAN RESEARCH AND SERVICE AGENCY ("LARASA"), based in Denver, is dedicated to improving the quality of life for Hispanics throughout Colorado, with a specific emphasis in its programs on education, health and jobs/self-sufficiency. LARASA is committed to non-discrimination as a means of promoting the public health in Colorado.

The NATIONAL ASSOCIATION OF PUBLIC HOSPITALS ("NAPH") is a trade association comprised of 100 of the nation's largest metropolitan safety net hospitals, including the Denver Department of Health and Hospitals. Although NAPH members represent only 1.7% of the nation's over 6,000 acute health care hospitals, they provide a disproportionate share of the health care of the United States' un- and underinsured. In 1988, NAPH members provided 19% of the nation's inpatient care to patients with AIDS and HIV-related disease, and much of this treatment was provided without compensation. Measures which result in the

discrimination against gays men and lesbians will make it more difficult to prevent, diagnose or treat HIV disease. Since NAPH members continue to bear a disproportionate share of the nation's HIV caseload, Colorado's Amendment 2 and any similar statutes will adversely affect NAPH members by needlessly increasing their HIV caseloads.

The NATIONAL TASK FORCE ON AIDS PREVENTION is a national minority organization dedicated to ending the AIDS epidemic by advocating for and assisting the development of HIV education and service programs by and for gay and bisexual men of color.

The SEX INFORMATION AND EDUCATION COUNCIL OF THE U.S. ("SIECUS"), founded in 1964, is a national organization dedicated to affirming that sexuality is a natural and healthy part of life. SIECUS develops, collects and disseminates information about sexuality and advocates the right of all individuals to make responsible sexual choices. SIECUS also has developed the National Coalition To Support Sexuality Education, a consortium of 72 national organizations, united in the mission to assure that all children and youth receive comprehensive sexuality education by the year 2000.

HARLON L. DALTON, J.D., Professor at Yale Law School, is a former member of the National Commission on

AIDS.* Mr. Dalton is a leading authority on legal issues generated by the AIDS epidemic. His AIDS-related publications include AIDS and the Law: A Guide for the Public, and "AIDS in Blackface." Mr. Dalton serves on the AIDS Interfaith Network in New Haven (Chairperson), the Advisory Board of the Connecticut Consortium of AIDS, the Editorial Board of the AIDS Alert, and the New Haven Mayor's Task Force on AIDS.

GERALD FRIEDLAND, M.D., is Director of the AIDS Program and Professor of Medicine and Epidemiology and Public Health at Yale University School of Medicine and Yale-New Haven Hospital. He has been actively involved in the organization and provision of clinical care and in clinical and epidemiologic research in the HIV/AIDS epidemic for over a decade. He has also been involved in developing programs to educate health care providers in HIV clinical care and is co-editor of the monthly newsletter, AIDS Clinical Care. Dr. Friedland is author of over 100 publications on infectious diseases and HIV/AIDS, and is

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* The National Commission on AIDS was established by Congress in 1988 "for the purpose of promoting the development of a national consensus on policy concerning AIDS and of studying and making recommendations for a consistent national policy" concerning the HIV epidemic. See 42 U.S.C. § 300cc (note). The Commission is a bipartisan body whose members were appointed by the President, the United States Senate, and the House of Representatives. Three other amici currently serve on the Commission and include its Chairman and Vice-Chairman.

currently the Principal Investigator of the Yale AIDS Clinical Trials Unit.

LARRY GOSTIN, J.D., is Executive Director of the American Society of Law and Medicine; Adjunct Professor of Health Law, Harvard School of Public Health; Lecturer on Law, Harvard University; Associate Director of the World Health Organization/Harvard University International Collaborating Center on Health Legislation; and Vice Chair of the Committee on the Use of Human Subjects in Research, Harvard School of Public Health. Mr. Gostin conducted major legal studies on AIDS law, policy and ethics for the U.S. Assistant Secretary for Health and the World Health Organization ("WHO"). He also sits on the policy steering committees for the WHO, the Council for International Organizations of Medical Sciences, and the U.S. Centers for Disease Control. He was consulting Legislative Counsel for the U.S. Senate Labor and Human Relations Committee, and conducted a bi-partisan briefing of U.S. Senators in the Senate. Mr. Gostin is Director of the AIDS Litigation Project, supported by the National AIDS Program Office, Department of Health and Human Services. He was a co-chair of the Eighth International Conference on AIDS in the Netherlands in July 1992. Mr. Gostin is editor of AIDS in the Health Care System.

LARRY KESSLER is a founding member and Executive Director of the AIDS ACTION Committee of Massachusetts, New

England's largest AIDS service organization. Beginning in 1983 as its only paid staff member, Mr. Kessler organized a corps of volunteers to combat the AIDS epidemic through education, service, advocacy, and outreach. He now oversees a staff of 75 full-time employees and more than 2,000 volunteers who provide support services to more than 1,400 men and women living with AIDS and HIV, and educational programs for health care providers, the public, and communities at risk of HIV infection. Mr. Kessler currently serves on the National Commission on AIDS. He was an original member of the Massachusetts Governor's Task Force on AIDS and the Boston Mayor's Task Force on AIDS. Mr. Kessler is a founding board member of the former National AIDS Network and the AIDS Action Council in Washington, on whose board he continues to serve. Most recently, he was named to the Advisory Boards of the Harvard AIDS Institute and the National Leadership Coalition on AIDS.

JUNE E. OSBORN, M.D., is Professor of Epidemiology and Dean of the School of Public Health at the University of Michigan, Professor of Pediatrics and Communicable Diseases at the University of Michigan Medical School, and Chairman of the National Commission on AIDS. She has served on numerous federal and nonfederal committees, currently including the Global Commission on AIDS for the World Health Organization and the Robert Wood Johnson Foundation National

Advisory Committee for AIDS Health Services Project (Chair). Dr. Osborn has published extensively in the fields of virology, public health, and public policy. She is a member of both the American Academy of Pediatrics and the American Academy of Microbiology. In 1986 she was elected to membership in the Institute of Medicine of the National Academy of Sciences.

DAVID E. ROGERS, M.D., currently serves as the first Walsh McDermott University Professor of Medicine at the New York Hospital-Cornell University Medical Center. Dr. Rogers is Vice Chairman of the National Commission on AIDS, and chairs the Governor's Advisory Council for the New York State AIDS Institute. He also recently chaired the New York City Mayoral Task Force on AIDS. He has been editor of the Year Book of Medicine since 1966. Dr. Rogers also served for 15 years as the President of The Robert Wood Johnson Foundation, Princeton, New Jersey, which during his period of service became the largest philanthropy devoting its resources to addressing problems in the health care of Americans. Dr. Rogers has also served as Dean of Medicine and Vice President for Medical Affairs at The Johns Hopkins University and Medical Director of The Johns Hopkins Hospital, and as Professor of Medicine and Chairman of the Department of Medicine at Vanderbilt University. Dr. Rogers is the author of over 200 scientific publications in the field of infectious disease, medical education, the special

medical problems of the underserved, problems in the delivery of medical care, and the problems of AIDS in our society.

ALLAN ROSENFIELD, M.D., is Dean of the Columbia University School of Public Health, DeLamar Professor of Public Health and Professor of Obstetrics and Gynecology. Dr. Rosenfield formerly served as the Director of Columbia University's Center for Population and Family Health. He is a diplomate of the American Board of Obstetrics and Gynecology, a fellow of the American College of Obstetricians and Gynecologists and an elected member of the Institute of Medicine. He is on the Executive Board of the American Public Health Association. He has served as consultant to the American Public Health Association, the International Bank for Reconstruction and Development (The World Bank), the United States Agency for International Development, several United Nations organizations, and the World Health Organization and serves on the Boards and/or Committees of the National Academy of Sciences/Institute of Medicine, the National Council on International Health, and the New York State and City Departments of Health. He has served as Chair of the Board of the Planned Parenthood Federation of America and is a past president of the New York Obstetrical Society. Dr. Rosenfield has written extensively in the field of population, family planning,

maternal and child health, obstetrics and gynecology and international health, with over 85 publications to date.

ROBERT T. SCHOOLEY, M.D., is Professor of Medicine and Head of the Division of Infectious Diseases at the University of Colorado Health Sciences Center. Dr. Schooley has conducted basic and clinical AIDS research for over a decade at Harvard University and the University of Colorado. He is currently the Chair of the Immunology Committee of the National Institutes of Health Clinical Trials Group. Dr. Schooley founded the Colorado AIDS Clinical Trials Unit, which he directs, and which is the only clinical trials unit between San Francisco and St. Louis. He recently completed a term as a member of the Colorado Governor's AIDS Council.

Contrary to the position of another amicus -- an organization styled "The Institute for Basic Life Principles" (referred to hereinafter as "Basic Life") which purports to state a public health position in favor of discrimination against lesbians and gay men, but which has no apparent health-related expertise and an admitted agenda having nothing to do with public health issues -- the amici herein submit that the district court did not abuse its discretion by preliminarily enjoining the enforcement of Amendment 2. The trial court correctly decided that an injunction was appropriate because, inter alia, plaintiffs-appellees are likely to succeed on the merits of their constitutional claims and issuance of the preliminary injunction will not harm the public interest. See Rathke v. MacFarlene, 648 P.2d 648 (Colo. 1982). In fact, the injunction will further the public interest by preventing the Amendment's significant interference with public health efforts.

As a public health matter, it is clear that the preliminary injunction is not only perfectly proper, but highly desirable. All of the reliable scientific, demographic and clinical information supports the conclusion that discrimination, or official countenance of discrimination (like Amendment 2), serves no rational public health purpose. Indeed, allowing discrimination presents a serious threat to the public interest in the prevention and control

of disease. Thus, providing protection from discrimination to groups that are or that are believed to be at risk of certain health problems, particularly AIDS, promotes the fight against disease.

Amendment 2, which gives official sanction to discrimination, is detrimental to individual and public health because individuals at risk, faced with the threats of stigma, loss of employment or insurance protection and loss of education or housing, will avoid requesting tests for detection of HIV infection or other sexually transmitted diseases, and will eschew education and counseling. By exacerbating already existing and prevalent fears that there are significant risks of discrimination and stigma -- and justifying those fears -- Amendment 2 will lead individuals to refrain from being frank with their doctors, impede the flow of preventive information from public health experts to the most affected groups and render public health problems more difficult to study and address. Vital opportunities for public education, research, treatment, testing and counseling will be lost, and as a consequence the public health will be irreparably harmed.

As if the threat of stigma and discrimination were not clear enough in this case, the brief submitted to this Court by Basic Life brings that threat into sharp focus. Basic Life unabashedly presents to the Court as "facts" blatantly irrational fears and prejudices -- including such

statements as "the general homosexual community . . . represents a great reservoir of dangerous transmissible diseases" (Basic Life Brief at 10), and "[t]endencies toward violence are common among practicing homosexuals" (id. at 19). Such nonsense cannot be allowed to displace reliable scientific evidence in the formulation of public health policy. See, e.g., City of Cleburne v. Cleburne Living Center, 473 U.S. 432, 448-50 (1985) (irrational fears and prejudices cannot survive even "rational basis" scrutiny). Amici respectfully submit that Basic Life, with a stated "mission" to advocate "universal non-optional principles of family harmony" (id. at 1), has submitted a brief which provides no legitimate or beneficial information concerning the relationship between Amendment 2 and public health.

Although amici do agree with Basic Life that the public health may be important to the Court's consideration of the question presented in this appeal amici urge this Court, on the basis of the reliable scientific evidence, to disregard the irrational fears and prejudices espoused by Basic Life, and to find that, to the extent that public health concerns bear upon the propriety of the preliminary injunction granted by the lower court, the injunction should be affirmed.

ARGUMENT

I.

AMENDMENT 2 IS ANTITHETICAL TO THE PUBLIC HEALTH.

The question whether and to what extent Amendment 2 serves public health objectives is before this Court because it may play a limited role in the Court's determination of whether the district court abused its discretion in finding that plaintiff-appellees are likely to succeed on the merits and that the preliminary injunction does not disserve the public interest. Rathke v. MacFarlene, supra, 648 P.2d at 653. In support of the State's opposition to the injunction, the amicus brief submitted by Basic Life asserts that Amendment 2 is justified as a health measure, particularly against AIDS and other sexually-transmitted diseases, and that preventing Amendment 2 from going into effect pending a determination on the merits of plaintiffs-appellees' challenge will harm the public health. Amici respectfully submit that Basic Life is wrong.

A. Amendment 2 Is Not a Public Health Measure and Is Counterproductive to Public Health Goals.

The proposed state constitutional amendment at the heart of this case says nothing on its face about public health, but rather forbids all branches of state government from remedying, or even recognizing, discrimination against lesbians and gay men. Amendment 2, by placing the imprimatur of public approval on discrimination, will not

deter conduct that spreads AIDS and other diseases, but it will deter efforts essential to combating them. The World Health Organization has specifically criticized discrimination as a counterproductive reaction to the threat of AIDS, and has adopted a resolution urging Member States "to protect the human rights and dignity of HIV-infected people and people with AIDS, and of members of population groups, and to avoid discriminatory action against and stigmatization of them in the provision of services, employment and travel."[2/] The WHO has sought "to stress to Member States and to all others concerned the dangers to the health of everyone of discriminatory action . . . and stigmatization. . . ."[3/] The Commission on AIDS appointed to advise President Reagan (also known as the "Watkins Commission") similarly concluded that retributive measures against people perceived to be at risk of AIDS are not effective in preventing conduct that may contribute to the spread of AIDS.[4/] The Institute of Medicine (the United

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2/ Avoidance of Discrimination in Relation to HIV-Infected People and People with AIDS, Resolution WHA41.24, adopted at the Forty-First World Health Assembly in Geneva on May 13, 1988, reprinted in World Health Organization: Legislative Responses to AIDS 288-90 (1989).

3/ Id. at 290 (emphasis added).

4/ See Report of the Presidential Commission on the Human Immunodeficiency Virus Epidemic 130 (June 24, 1988). See also National Commission on AIDS, Second Annual Report to the President and the Congress: America Living with AIDS at 111-114 (September 1991).

States' government's premier medical institute), the American Medical Association and the American College of Physicians, as well as the Colorado Public Health Officer's Association, have likewise emphasized that avoiding discrimination is a necessary part of public health measures to combat AIDS.[5/]

In fact, expert opinion is virtually unanimous on how to stem the spread of AIDS and HIV: education, voluntary testing and counseling, and research, all in conjunction with the prevention of discrimination and assurances of confidentiality to encourage individuals to come forward.[6/] This consensus on a voluntary, rather than a compulsory, approach grew from the particular

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5/ See Institute of Medicine/National Academy of Sciences, Confronting AIDS: Update 1988 6 (1988) (hereinafter "Confronting AIDS"); American Medical Association, Prevention and Control of Acquired Immune Deficiency Syndrome: An Interim Report, 258 J.A.M.A. 2097 (1987); Health and Public Policy Committee, American College of Physicians; and the Infectious Diseases Society of America, The Acquired Immunodeficiency Syndrome (AIDS) and Infection with the Human Immunodeficiency Virus (HIV), 108 Annals of Internal Medicine 460, 465 (1988); and Letter from Colorado Public Health Officer's Association to Equal Protection Ordinance Coalition dated May 8, 1991 (Ex. 61).

6/ In addition to the authorities cited in footnotes 2, 3, 4 and 5, supra, see also H. Fineberg, Education to Prevent AIDS: Prospects and Obstacles, 239 Sci. 592, 595-96 (1988); and L. Gostin, Public Health Strategies for Confronting AIDS: Legislative and Regulatory Policy in the United States, 261 J.A.M.A. 1621 (1989).

circumstances of the AIDS epidemic.[7] First, there is no known cure for the disease, making prevention efforts of paramount importance while a cure is being sought. Second, HIV cannot be transmitted through casual contact,[8] but only (a) through intimate sexual contact; (b) through inoculation with HIV-infected blood, including via needle sharing among injection drug users; or (c) perinatally.[9]

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[7] See, e.g., N. Hunter & W. Rubenstein, eds., AIDS Agenda: Emerging Issues in Civil Rights at 239-41 (1992) (summarizing the development and background of the expert consensus on the voluntaristic approach to prevention and control of HIV transmission which is set forth in the remainder of this paragraph).

[8] See H. Brett-Smith & G. Friedland, "Transmission and Treatment" in AIDS Law Today 29 (1993) (summarizing research); G. Friedland, et al., Additional Evidence for Lack of Transmission of HIV Infection by Close Interpersonal (Casual) Contact, 4 AIDS 639 (1990); Gershon, et al., The Risk of Transmission of HIV-1 Through Non-Percutaneous, Non-Sexual Modes -- A Review, 4 AIDS 645 (1990); A. Fettner & W. Check, The Truth about AIDS: Evolution of an Epidemic 158-59 (rev. ed. 1985); G. Friedland, Saltzman, Royers, Kahl, Lesser, Mayers & R. Klein, Lack of Transmission of HTLV-III/LAV Infection to Household Contacts of Patients with AIDS or AIDS-Related Complex with Oral Candidiasis, 314 N. Eng. J. Med. 344 (1986); Sande, Transmission of AIDS: The Case against Casual Contagion, 314 N. Eng. J. Med. 380 (1986); J. Mann, T. Quinn, H. Francis, N. Nzilambi, Bosegne, Bila, McCormick, Ruti, Asila & J. Curran, Prevalence of HTLV-III/LAV in Household Contacts of Patients with Confirmed AIDS and Controls in Kinshasa, Zaire, 256 J.A.M.A. 721 (1986).

[9] G. Friedland & R. Klein, Transmission of the Human Immunodeficiency Virus, 317 N. Eng. J. Med. 1125 (1987); see also Confronting AIDS, supra n.5, at 37-39 ("Epidemiological data continue to support the observation that HIV transmission is limited to sexual contact, the sharing of contaminated needles and syringes, exposure to infected blood or blood products, (continued...)

Given that the risk comes from highly personal behavior typically conducted in private, education and resulting voluntary behavioral change (e.g., condom or clean needle use) present the most effective mechanisms for prevention.[10/] Third, because HIV has a long latency period, meaning that an individual may unknowingly be infected, and because an estimated one million people in the United States may be infected, voluntary testing and counseling must be encouraged to aid in promoting behavioral change by those who might spread HIV. Finally, AIDS is currently associated with groups that are already the subject of societal disfavor and discrimination (gay men, minorities and intravenous drug users). In these circumstances, voluntary testing, counseling and education depend on assurances of confidentiality and prevention of discrimination.[11/]

9/(...continued)
transplantation of infected organs or tissue, and transmission from mother to child either across the placenta or during delivery").

10/ The Institute of Medicine has emphasized that "educational efforts to foster and sustain behavioral change are the only means now available to stem the spread of HIV infection." Confronting AIDS, supra n.5, at 6 (emphasis added). It was for this reason that former U.S. Surgeon General C. Everett Koop caused educational materials to be distributed to every household in the United States. U.S. Department of Health and Human Services, Surgeon General's Report on Acquired Immune Deficiency Syndrome 5, 31 (1986).

11/ The Colorado Public Health Officer's Association opposed Amendment 2 for precisely these reasons. See Letter from Colorado Public Health Officer's Association, supra n.5.

In addition, because of the manner in which HIV is transmitted and the groups with which it is associated, there is a significant risk that public health efforts -- educational efforts in particular -- will be undermined by "moral" disapproval of educational messages and discrimination against the most affected groups. The approach to stemming HIV transmission "must be, as learned from past experiences [with public health problems], both non-judgmental and non-moralistic if it is to be effective."[12/]

The achievement of the public health goals of health maintenance, disease prevention, and disease detection and treatment depends upon the cooperation of many

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12/ J. Cutler & R. Arnold, Venereal Disease Control by Health Departments in the Past: Lessons for the Present, 78 Am. J. Pub. Health 372 (1988); T. Peterman & J. Curran, Sexual Transmission of Human Immunodeficiency Virus, 256 J.A.M.A. 2222, 2223 (1986) (discussing the superiority of public health approaches over moralistic approaches to the prevention of venereal diseases during World War I). See also Fullilove, et al., Black Women and AIDS Prevention: A View Towards Understanding the Gender Roles, 1 J. Sex Research 47 (1990) (urgent need exists for non-judgmental, non-moralistic explicit HIV prevention campaigns among minorities and minority women in particular); L. Gostin, Public Health Strategies, supra n.6:

> Legislation . . . can . . . seriously inhibit health efforts by dictating the content of educational messages based on moral disapproval of sexual practices and drug use; by enacting a patchwork of exceptions to the principle of confidentiality; and by succumbing to political pressures to "get tough" against members of high-risk groups through compulsory screening, isolation, and criminalization of human immunodeficiency virus (HIV) transmission.

individuals, including patients, physicians, hospital personnel, researchers, government officials and the public at large. To make sound decisions about individual treatment and public health, both individual physicians and public health personnel must be able to obtain accurate information. Discrimination can seriously undermine these essential public health strategies by causing individuals to conceal or distort relevant information and by inhibiting effective public education efforts.

In the case of sexually transmitted diseases such as AIDS, substantial harm to individuals and the public will result. Tellingly, researchers have discovered that societies with harsh penalties for homosexual conduct suffer from poorer reporting and treatment of sexually transmitted diseases among lesbians and gay men than more progressive societies.[13/] However, homosexual practices are widespread throughout the world,[14/] regardless of whether such practices are accepted, frowned upon or ignored.[15/]

13/ D. Ostrow & Altman, Sexually Transmitted Diseases and Homosexuality, 10 Sexually Transmitted Diseases 208, 212 (1983).

14/ See Carrier, "Homosexual Behavior in Cross-Cultural Perspective" in Homosexual Behavior: A Modern Reappraisal 100-02 (Marmor ed. 1980); C. Ford & F. Beach, Patterns of Sexual Behavior 143 (1951).

15/ See V. Bullough, Sexual Variance in Society and History 380-81 (1976); J. Boswell, Christianity, Tolerance and Homosexuality chs. 1 & 2 (1980); Karlen, "Homosexuality in History" in Homosexual Behavior: A Modern

(continued...)

Consequently, it is likely that discrimination will have virtually no impact on the frequency of homosexual conduct, but that it will jeopardize individual and public health. The following sections further detail this detrimental consequence of Amendment 2, above and beyond its harsh removal from lesbians and gay men of any state protection against discrimination.

1. Amendment 2 will adversely affect the health and treatment of individuals as well as efforts to prevent additional individuals from contracting disease.

Amendment 2 is likely to have an extremely negative impact on the patient-doctor relationship. In fear of social disapproval and with the knowledge that they have no legal protection from discrimination, gay men and lesbians may not tell their personal physicians about their sexual orientation.[16/] For example, a patient who is considering whether to disclose such information may fear that members of a physician's or hospital's staff may make accidental or unauthorized disclosure of his or her sexual orientation which would expose the patient to discrimination

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[15/](...continued)
Reappraisal 75-99 (Marmor ed. 1980). As Judge Posner concluded, the practice of homosexuality "seems fairly invariant to a society's degree of tolerance, legal and social, of homosexuality." R. Posner, Sex and Reason 303 (1992).

[16/] See, e.g., Dardick & Grady, Openness Between Gay Persons and Health Professionals, 93 Annals of Internal Med. 115 (Pt. 1 1980).

in employment, housing or education. He or she may consequently choose to conceal the information. This concealment may adversely affect the medical care an individual receives, and carries potentially serious risks of misdiagnosis.[17/] Furthermore, fear of discrimination or other negative results also can lead to failure to seek treatment at all. Thus, some people who have been exposed to HIV or other health problems may avoid reporting their own exposure fearing that their report may lead to discrimination.[18/]

Moreover, Amendment 2 interferes with health education efforts designed to encourage safer sexual

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17/ For example, physicians may not include in their list of possible diagnoses certain conditions that appear in homosexual men. See William, The Sexual Transmission of Parasitic Infections in Gay Men, 5. J. Homosexuality 291 (1980).

18/ For example, during World War I, American soldiers in Europe were subject to court martial if they were diagnosed as having contracted a venereal disease. A. Brandt, No Magic Bullet 102 (1985). Many military physicians believed that the threat of court martial induced soldiers to conceal their illness for as long as possible. Id. at 102, n.20, 103-05. But the threat of court martial certainly did not prevent the contraction of venereal diseases: more than 380,000 soldiers were diagnosed as having a venereal disease during the period from April 1917 to December 1919. Id. at 115.

In contrast, during World War II, the Army adopted an aggressive education program, selling or distributing as many as 50 million condoms a month. Between 1940 and 1943 (before the introduction of penicillin), the rate of venereal disease in the Army dropped from 42.5 to 25 cases per thousand persons. Id. at 163-70.

practices. Because there is no known cure for AIDS, such preventive efforts are the best -- indeed the only -- means of effectively addressing the threat of AIDS.[19] As stated by Dr. Jonathan M. Mann, former Director of the World Health Organization's Global Program on AIDS, in support of the WHO's resolution against discrimination:

> [I]f HIV infection or suspicion of HIV infection, leads to stigmatization and discrimination (e.g. loss of employment, forced separation from family, loss of education or housing), persons already HIV-infected and those who are concerned they may be infected will actively avoid detection and contact with health and social services will be lost. Those needing information, education, counselling or other support services would be "driven underground." The person who fears he or she may be infected would be reluctant to seek assistance out of fear of being reported -- with severe personal consequences. The net result would be to seriously jeopardize educational outreach and thereby exacerbate the difficulty of preventing HIV infection.[20]

Thus, Amendment 2 may result in making it far more difficult to identify the members of the community who are most in need of receiving health-related information. The consequence of interfering with the effective conveyance of such information could obviously be devastating. As the

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19/ See supra at 8-10; see also Longshore, Reaching Populations at Higher Risk for AIDS, 4 AIDS & Pub. Policy J. 101 (1989); Yankauer, AIDS and Public Health, 78 Am. J. Pub. Health 364 (1988); P. Cleary, Education and Prevention of AIDS, 16 L. Med. & Health Care 267 (1988); Peterman, et al., Sexual Transmission, supra n.12, at 2224.

20/ J. Mann, AIDS: Discrimination and Public Health, reprinted in World Health Organization: Legislative Responses to AIDS 291 (1989).

National Commission on AIDS concluded, "[d]iscrimination against people with HIV disease continues to be the greatest obstacle to effectively and compassionately responding to the HIV epidemic."[21/]

2. Amendment 2 will adversely affect scientific investigation directed toward containing disease and finding a cure.

The process of understanding and controlling newly identified diseases such as AIDS urgently requires prompt gathering of accurate information. Diagnosis of individual cases, identification of relevant attributes of the affected populations, finding individuals who may be unknowing or unreported sources of infection, and testing of hypotheses about the origin and spread of disease all depend on careful collection of data.[22/] A legal scheme that results in individuals being afraid to disclose that they are gay or lesbian runs the risk of obscuring or distorting data, as gay men and lesbians will simply refuse to volunteer for studies or to be candid.[23/]

21/ National Commission on AIDS, America Living with AIDS, supra n.4, at 113-14.

22/ See J. Mausner & S. Kramer, Mausner & Bahn's Epidemiology -- An Introductory Text 287-89 (2d ed. 1985).

23/ Initial attempts to analyze the incidence of AIDS identified Haitians who had recently arrived in the United States as a high risk group "having neither a history of homosexuality nor a history of drug abuse." Update on Acquired Immune Deficiency Syndrome (AIDS) -- United States, 31 Morbidity & Mortality Weekly Rep. (continued...)

Moreover, if incomplete disclosure results in faulty diagnosis, efforts to contain the spread of disease will be frustrated. First, the misdiagnosed patient may unknowingly infect others. Second, the public health effort to diagnose, treat and educate not only the patient but also those with whom the patient has had sexual contact requires

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[23]/(...continued)
507, 511 (September 24, 1982), reprinted in MMWR Reports at 12. The current view of the Centers for Disease Control, however, is that Haitians are not members of a discrete risk group. Update: Acquired Immunodeficiency Syndrome (AIDS) -- United States, 34 Morbidity & Mortality Weekly Rep. 245 (May 10, 1985), reprinted in MMWR Reports at 907. One explanation for epidemiologists' failure to identify an overlap between the Haitians and other identified high-risk groups, such as homosexual men and intravenous drug users, is that many Haitian patients were afraid to tell investigators the truth and thereby risk exclusion or deportation.

In another context, a study of military personnel conducted at Walter Reed Army Medical Center shows a much higher incidence of female-to-male transmission of HTLV-III/ LAV virus than most other United States reports. Compare R. Redfield, P. Markham, S. Salahuddin, Wright, Sarngadharan & Gallo, Heterosexually Acquired HTLV-III/LAV Disease (AIDS Related Complex and AIDS), 254 J.A.M.A. 2094 (1985) with Heterosexual Transmission of Human T-Lymphotropic Virus Type III/Lymphadenopathy-Associated Virus, 34 Morbidity & Mortality Weekly Rep. 561 (September 20, 1985), reprinted in MMWR Reports at 112. The question of the incidence of female-to-male transmission is an important area of inquiry. While it is possible that the other reports show an artificially low incidence of such transmission, another explanation for the disparity is that the military personnel in the Walter Reed study were reluctant to admit to homosexual activity or intravenous drug use, either of which could lead to discharge. See Letter, "Lying to Military Physicians About Risk Factors for HIV Infections," 257 J.A.M.A. 1727 (1987).

the patient's cooperation.[24/] It is imperative that patients not fear reprisal against themselves or their sexual partners.

B. The Irrational Fears and Prejudices that Drive Amendment 2 Are Harmful to the Public Health.

Certain Amendment 2 supporters, such as Basic Life, express irrational fears and prejudices about AIDS and groups perceived to be at risk of AIDS. Such views are contrary to the experience and advice of every legitimate health organization in this country and, indeed, the United States government.[25/] Inflammatory and untrue allegations concerning the behavior of lesbians and gay men, proffered in furtherance of a "mission" to promote "non-optional" views of family values (see Basic Life Brief at 1), interfere with crucial efforts to promote public health on the basis of sound medical and scientific evidence.

1. Contrary to Basic Life's assertions, AIDS and other sexually transmitted diseases are public health problems that affect everyone in Colorado; gay men and lesbians do not cause these illnesses.

HIV, like other communicable disease agents, is transmitted by certain very well-established acts. It is not -- as Basic Life asserts -- a virus that somehow originates out of and is caused by a group of people. At present, the number of HIV infections among heterosexuals is

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[24/] 1985 STD Treatment Guidelines, 34 Morbidity & Mortality Weekly Rep. 1085 (October 18, 1985).

[25/] See supra at 7-8.

growing at a faster rate than new infections among gay men.[26/]

HIV may be sexually transmitted by both anal and vaginal intercourse and therefore may be, and is, heterosexually transmitted.[27/] Because many heterosexual couples engage in anal as well as vaginal intercourse, they too may transmit HIV through anal intercourse.[28/] Thus, the focus on homosexual contact epitomized by the Basic Life brief fails to account for the reality of HIV transmission.

Similarly, contrary to the claims of Basic Life (Basic Life Brief at 12), oral-genital contact has not been shown to be a significant source of HIV infection. In particular, cunnilingus creates the lowest among low risks of transmission during oral-genital sexual activity. The

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26/ See A. Greenspan & K. Castro, Heterosexual Transmission of HIV Infection, 19 SEICUS Report No. 1 at 1 (1990).

27/ See H. Haverkos & R. Edelman, The Epidemiology of Acquired Immunodeficiency Syndrome Among Hetrosexuals, 260 J.A.M.A. 1922 (1988); see also infra n.30.

28/ Based on studies, researchers estimate that at least 18% of heterosexual men have engaged in anal intercourse with women, that 39% of women have engaged in anal intercourse, and that 10% of women regularly participate in anal intercourse. J. Reinisch, S. Sanders & M. Ziemba-Davis, The Study of Sexual Behavior in Relation to the Transmission of Human Immunodeficiency Virus, 43 Am. Psychologist 921, 922 (1988). See also B. Voeller, "Heterosexual Anal Intercourse" in AIDS and Sex: An Integrated Biomedical and Biobehavioral Approach 272, 296 (1990) (concluding that research studies support a "conservative" estimate that "at least" 10 percent of sexually-active American women "engage in anal intercourse with some regularity").

risk of HIV transmission among lesbians, therefore, is extremely remote.[29/] By contrast, the danger to women of heterosexual transmission of HIV is alarming.[30/] Basic Life's assertion that AIDS and other sexually transmitted diseases are spread by other "homosexual practices, too despicable to even describe here" (Basic Life Brief at 15) both ignores the scientific evidence on the spread of disease and highlights Basic Life's moral, not public health, basis for its support of Amendment 2.

29/ B. Eskenazi, C. Pies, A. Newsletter, C. Shepard, K. Pearson & D. Stantzner-Gibson, Women and HIV Disease: An Emerging Social Crisis, 36 Social Work 22 (1991); B. Eskenazi, C. Pies, A. Newsletter, C. Shepard & K. Pearson, HIV Serology in Artificially Inseminated Lesbians, 2 J. Acquired Immune Deficiency Syndrome 187 (1989).

30/ "Although most cases of AIDS in the United States still occur in homosexual or bisexual men and intravenous (IV) drug users, the number of cases of heterosexually transmitted AIDS has been increasing steadily and more rapidly than cases in any of the other transmission categories." Greenspan, et al., Heterosexual Transmission, supra n.26. Indeed, numerous studies in Africa, Haiti, and the United States have made it clear that heterosexual sexual transmission is probably the leading route of HIV infection worldwide and is increasingly important in the United States." Friedland, et al., Transmission, supra n.9, at 1128. For other studies documenting heterosexual transmission of HIV, see, e.g., Voeller, "Heterosexual Anal Intercourse," supra n.28, at 276; Confronting AIDS, supra n.5, at 39; H. Handsfield, Heterosexual Transmission of Human Immunodeficiency Virus, 260 J.A.M.A. 1943 (1988); Padian, Marquis, Francis, Anderson, Rutherford, O'Malley & Winkelstein, Jr., Male-to-Female Transmission of Human Immunodeficiency Virus, 258 J.A.M.A. 788-90 (1987).

2. Basic Life ignores the important, responsible public health example set by gay men in adopting safer sexual practices.

Because there is yet no cure for HIV or AIDS, public health efforts rely heavily on prevention of exposure through education, counseling and testing.[31] Gay men have responded dramatically to educational and counseling efforts to combat AIDS,[32] resulting in a remarkable decrease in the rate of new HIV infections in New York and San Francisco.[33]

31/ While "celibacy and the avoidance of IV drug use would be sufficient to virtually halt the spread of HIV . . . widespread compliance with such extreme measures is clearly unlikely, necessitating control strategies which involve modification rather than elimination of risk-related behaviors." M. Becker & J. Joseph, AIDS and Behavioral Change to Reduce Risk: A Review, 78 Am. J. Pub. Health 394, 394 (1988); see also Friedland, et al., Transmission, supra n.9, at 1130 ("Past experience suggests that rather than attempting to eliminate sexuality, we should direct our energies to minimizing the risk of transmission during sex.")

32/ Freudenberg, AIDS Prevention in the United States: Lessons From the First Decade, 20 Int'l J. Health Services 589 (1990). See also Centers for Disease Control, Self-Reported Behavioral Change Among Gay and Bisexual Men -- San Francisco, 34 Morbidity & Mortality Weekly Rep. 613 (1985); Becker, et al., AIDS and Behavioral Change, supra n.31; Fineberg, Education to Prevent AIDS, supra n.6, at 594.

33/ W. Winkelstein, J. Wiley & N. Padian, The San Francisco Mens Health Study: Continued Decline in HIV Seroconversion Rates Among Homosexual/Bisexual Men, 78 Am. J. Pub. Health 1472 (1988) (finding 88% decrease). The results of this study are corroborated Dr. Anthony S. Fauci, Director of the National Institute of Allergy and Infectious Diseases, who provided testimony before Congress that there has been a 75% to 80% decrease in the incidence of rectal gonorrhea in recent years as compared to 1983 and 1984. Civil Rights Aspects of Public Health Policies and Initiatives to Control AIDS:

(continued...)

There is evidence, however, "that the changes observed in large, organized urban gay communities with a high incidence of AIDS have not occurred in gay populations in low-incidence areas, among gay men of color, or among those still 'in the closet.'"[34/] Significantly, "very few adolescents [heterosexual as well as homosexual], whether high school students, dropouts, or college students, are protecting themselves against HIV."[35/] Thus, behaviors that increase the risk of spreading AIDS are most prevalent in communities and populations that lack educational and social services programs, or that suffer from fear of discrimination. Non-judgmental, non-moralistic explicit educational campaigns in these communities is urgently needed.[36/]

Contrary to the views espoused by Basic Life, it is clear that gay men and lesbians do not suffer from AIDS or other sexually transmitted diseases as a result of a "custom" of promiscuity (Basic Life Brief at 15). It is the

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[33/](...continued)
Hearing Before the United States Commission on Civil Rights 79 (1988) (statement of Dr. Anthony S. Fauci, M.D., Director, National Institute of Allergy and Infectious Diseases).

[34/] Freudenberg, AIDS Prevention, supra n.32, at 592.

[35/] Id.

[36/] See, e.g., Fullilove, et al., Black Women, supra n.12 (minorities, and minority women in particular, are in need of such programs).

type and safety of a particular sexual act, not simply the number of partners, that determines whether HIV might be transmitted. Shortfalls in safer-sex education for both homosexuals and heterosexuals, coupled with fear of stigmatization of the very kind Basic Life perpetuates, account for much of the continuing public health problem. In fact, one of the very sources cited by Basic Life actually shows that gay men on the average engage in less sexual activity and equal numbers of sexual partners as heterosexual men do, while lesbians average fewer sexual partners than heterosexual women do.[37/]

C. Amendment 2 Does Not Further Any Mental Health Objectives and May Be Detrimental to the Mental Health of Many Members of Society.

1. Homosexuality is not a mental illness or a sign of other mental disorders.

In addition to erroneously painting gay men and lesbians as a group uniquely associated with contagious diseases, Basic Life wrongly asserts that this group is mentally unstable and especially violent. Although many once believed that homosexuality was a mental illness, it is now well recognized, as a result of extensive scientific findings by a large number of independent researchers, that

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37/ M. Hunt, Gay: What You Should Know About Homosexuality at 9 (1977).

homosexuality is not a mental disease.[38] The first major challenge to the belief that homosexuality was an illness came as long ago as 1957, when a scientific study determined that homosexual and heterosexual men could not be distinguished from each other on the basis of standard psychological tests, and that a similar majority of the two groups appeared to be free of psychopathology.[39] Of course, some lesbians and gay men, like some heterosexuals, are psychologically ill. But extensive psychological research conducted for over three decades has conclusively established that homosexuality is not related to

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38/ The American Psychiatric Association's Diagnostic and Statistical Manual (Third Edition), used as an authoritative description of diagnostic categories of mental disorders by health care practitioners and the insurance industry, does not include in its catalogue of pathological sexual syndromes either oral or anal sex between persons of different sexes or the same sex. American Psychiatric Association, Diagnostic and Statistical Manual 261-83 (3d ed. 1980). According to the American Psychiatric Association's Task Force on Sexual Orientation, the research that had supported the prior "illness model" of homosexuality was "influenced by poorly founded stereotypes and social prejudice." Weinrich, "Task Force Findings: Overview and Prospect" in Homosexuality: Social, Psychological and Biological Issues 377 (Paul, et al., eds. 1982). The U.S. Surgeon General's Office has officially recognized that "according to 'current and generally accepted canons of medical practice' homosexuality per se is no longer considered to be a mental disorder." Hill v. INS, 714 F.2d 1470, 1472 (9th Cir. 1983) (quoting 56 Interpreter Releases 387, 398 (1979)).

39/ E. Hooker, The Adjustment of the Male Overt Homosexual, 21 J. Projective Techniques 17 (1957). Subsequent studies have replicated these findings with female samples. See, e.g., M. Freedman, Homosexuality and Psychological Functioning (1971).

psychological adjustment or maladjustment.[40] Nor is homosexuality related to sexual abuse of minors.[41] At least one commentator has concluded that "theories contending that the existence of differences between homosexuals and heterosexuals implies maladjustment are irresponsible, uninformed, or both."[42]

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[40] See Gonsiorek, Results of Psychological Testing on Homosexual Populations, 25 Am. Behavioral Sci. 385, 394 (1982); Reiss, "Psychological Tests in Homosexuality" in Homosexual Behavior: A Modern Reappraisal 296-311 (Marmor ed. 1980); Hart, Roback, Tittler, Weitz, Walston & McKee, Psychological Adjustment of Nonpatient Homosexuals: Critical Review of the Research Literature, 39 J. Clinical Psychiatry 604 (1978).

[41] See G. Herek, Myths About Sexual Orientation: A Lawyer's Guide to Social Science Research, 1 Law & Sexuality 133, 152-56 (1991).

It should be noted that Paul Cameron, whose writings are the Basic Life brief's exclusive source of authority for their claim of a connection between homosexuality and violence (Basic Life Brief at 18-19), was dropped from the membership of the American Psychological Association in 1983 for violating the Preamble to the Ethical Principles of Psychologists. See id. at 156. In 1984, the Nebraska Psychological Association "formally dissociat[ed] itself from the representations and interpretations of scientific literature offered by Dr. Paul Cameron in his writings and public statements on sexuality." See id. In 1985, the American Sociological Association formally stated that "Dr. Cameron has consistently misinterpreted and misrepresented sociological research on sexuality, homosexuality, and lesbianism." See id. In sum, the views of Dr. Cameron on this topic are contrary to those of the scientific community.

[42] Gonsiorek, Psychological Testing, supra n.40, at 394; see also Reiss, "Psychological Tests," supra n.40, at 308. Although some researchers have postulated that homosexuality may result from a different hormonal

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The Basic Life brief's suggestion that lesbians and gay men are prone to violence, citing such examples as Wayne Williams (Basic Life Brief at 19) and Jeffrey Dahmer (id.), is an irresponsible attempt to inflame the Court in these proceedings. It should be taken for what it obviously is: a vivid demonstration that Basic Life is not interested in the public health (as it purports to be), but in an anti-gay and lesbian agenda.

2. Discrimination is harmful to individuals' mental health.

Mental health clinicians have long observed that diverse expressions of sexual feelings between consenting adults are not symptoms of mental disorder, but rather of mental health. No significant data show that engaging in a variety of sexual expressions results in mental or physical

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42/(...continued)
constitution, a series of studies has failed to establish that homosexual people are characterized by abnormal hormone levels or other abnormal physiological characteristics. See Ricketts, Biological Research on Homosexuality: Ansell's Cow or Occam's Razor? 9 J. Homosexuality 65 (1984); Meyer-Bahlberg, "Homosexual Orientation in Women and Men: A Hormonal Basis" in The Psychobiology of Sex Differences and Sex Roles 105-130 (Parsons ed. 1980).

dysfunction.[43] Indeed, repression of desires for sexual expression can lead to dysfunction and pathology.[44]

It is well established that social or moral pronouncements, expressed through the law and imposed upon a minority group, stigmatize and significantly damage the mental health of members of the minority. See Brown v. Board of Education, 347 U.S. 483, 494-95 (1954); see also J. Jones, Prejudice and Racism 138-40 (1972). Amendment 2, which may be perceived as government encouragement or endorsement of discrimination,[45] works to stigmatize gay

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[43] Mental problems associated with such sexual expression, whether engaged in by heterosexual or homosexual people, are usually the product of internalized social condemnation of those who practice it. Thus, the pathologies sometimes associated with variant sexual conduct can be viewed as social rather than personal pathologies. See Gonsiorek, "Social Psychological Concepts in the Understanding of Homosexuality" in Paul, et al., Homosexuality, supra n.38, at 23.

[44] W. Masters & V. Johnson, Human Sexual Inadequacy (1970); see E. Coleman, "Developmental Stages of the Coming-Out Process" in Paul, et al., Homosexuality, supra n.38, at 150-51 (1982); P. Fisher, The Gay Mystique, the Myth and Reality of Male Homosexuality 249 (1972).

[45] 1992 witnessed a 129% increase over 1991 in reports of anti-gay incidents in Colorado attributed, in part, to Amendment 2. See "Gays See Surge in Violence: Amendment 2 Cited in National, State Reports," Denver Post (March 12, 1993); "Violence Is Apparent Fallout of Colorado Law on Gays," Star Tribune (January 25, 1993) (hate crimes against gay men and lesbians tripled during November and December 1992 following passage of Amendment 2).

men and lesbians as "deviants"[46/] who are viewed in terms of undesirable stereotypes, such as those expressed in the Basic Life brief. Such stigmatization leads to the development of coping mechanisms and stress among the members of the disfavored group.[47/] Thus, if Amendment 2 has any impact on the psychological health of the public, that impact will be harmful.

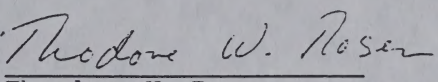
46/ The term "deviant" is used in the social sciences to refer to the social reaction to behavior, not to the behavior itself. H. Becker, Outsiders: Studies in the Sociology of Deviance (1963).

47/ See, e.g., G. Allport, The Nature of Prejudice (1954).

CONCLUSION

For the foregoing reasons, amici urge this Court to affirm the district court's grant of a preliminary injunction enjoining enforcement of Amendment 2. Amendment 2 disserves public health, and the injunction serves the public interest. Enjoining Amendment 2 will allow valuable Colorado public health education and treatment programs to continue unimpeded by the fear of state-sanctioned discrimination.

Respectfully submitted,



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